

### REMARKS

Forty-four claims were originally filed in the present Application. Claims 1-44 have been cancelled, and were replaced with currently-pending claims 45-55. Claims 45-55 stand rejected. Claim 49 is amended, and new claims 56-61 are added in the present Response. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

#### Rejection under 35 U.S.C. §112, Second Paragraph

In paragraph 2 of the Office Action, the Examiner indicates that claims 46 and 52 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner cites claim language that states “the user community being defined by the or each identified common user characteristic”. Applicants respectfully traverse these rejections.

Claim 46 first recites “at least one common user characteristic”. Claim 46 then recites “the or each common user characteristic”. The words “the . . . common user characteristic” refer to the situation in which there is a single user characteristic. The words “each common user characteristic” refer to the situation in which there are more than one user characteristics. Therefore, in a situation in which there is “at least one”, the words “the or each” properly refer to both single and multiple user characteristics. The foregoing remarks apply equally to claim 52. In view of the foregoing remarks, Applicants believe that the

Examiner's rejections are addressed, and respectfully request that the rejections under 35 U.S.C. §112, second paragraph, be withdrawn.

35 U.S.C. § 102(e)

In paragraph 3 of the Office Action, the Examiner rejects claims 45-55 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,772,213 to Glorikian (hereafter Glorikian). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Glorikian fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Glorikian teaches a system for delivering information related to stationary exhibits to a user device based upon the current location of the user device (see column 2, lines 18-54). Glorikian also mentions utilizing time and user's interests as other factors to potentially consider for providing the information. However, currently-rejected independent claim 45 recites “*each logon request comprising device profile information associated with the portable electronic device making the logon request, each logon request further comprising user profile information associated with the person using the portable electronic device making the logon request*”.

Applicants submit that Glorikian nowhere mentions providing “device profile information” that is specifically associated with a particular portable electronic device. Applicants therefore submit that the foregoing limitations of independent claim 45 are not taught or suggested either by the cited reference, or by the Examiner’s citations thereto. For at least the foregoing reasons, Applicants submit that the rejection of independent claim 45 under 35 U.S.C. 102(e) is improper.

Regarding the Examiner’s rejection of dependent claims 46-48, for at least the reasons that these claims are dependent from independent claim 45 whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of independent claim 45, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 46-48, so that these claims may issue in a timely manner.

In addition, currently-amended independent claim 49 now recites “*each logon request comprising user profile information associated with the person using the portable electronic device making the logon request, each logon request also comprising device profile information associated with the portable electronic device making the logon request*”.

As discussed above in conjunction with independent claim 45, Applicants submit that Glorikian nowhere mentions providing “device profile information” that is specifically associated with a particular portable electronic device. Applicants therefore submit that the foregoing limitations of independent claim

49 are not taught or suggested either by the cited reference, or by the Examiner's citations thereto.

Furthermore, independent claim 49 recites "*automatically grouping at least a portion of the persons using logged on portable electronic devices into a user community, the user community being defined by each identified common user characteristic.*" Applicants submit that Glorikian nowhere discloses any type of "user community", as recited by Applicants in claim 49. Furthermore, Applicants submit that Glorikian fails to teach any sort of "grouping" of system users to form user communities. For at least the foregoing reasons, Applicants submit that the rejection of independent claim 49 under 35 U.S.C. 102(e) is improper.

Regarding the Examiner's rejection of dependent claims 50-51, for at least the reasons that these claims are dependent from independent claim 49 whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of independent claim 49, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 50-51, so that these claims may issue in a timely manner.

With regard to the rejection of independent claim 52, the currently-rejected claim 52 recites "*grouping persons who share the or each common characteristic into a user community*". As discussed above in conjunction with claim 49, Applicants submit that Glorikian nowhere discloses any type of "user community", as recited by Applicants in claim 52. Furthermore, Applicants submit that Glorikian fails to teach any sort of "grouping" of system users to form

user communities. For at least the foregoing reasons, Applicants submit that the rejection of independent claim 52 under 35 U.S.C. 102(e) is improper.

Regarding the Examiner's rejection of dependent claims 53-55, for at least the reasons that these claims are dependent from independent claim 52 whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of independent claim 52, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 53-55, so that these claims may issue in a timely manner.

In addition, with regard to the rejection of dependent claim 55, the Examiner cites column 7, lines 60 to column 8, line 50 of Glorikian as support for the rejection. Applicants submit that the cited portions of Glorikian nowhere disclose that "said event is a live event that includes at least one of a movie theater event, a sporting venue event, or a sports bar event," as recited by Applicants in claim 55.

Because a rejection under 35 U.S.C. §102 requires that every claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Glorikian to identically teach or suggest the claimed invention, Applicants respectfully request reconsideration and allowance of claims 45-55 so that these claims may issue in a timely manner.

### New Claims 56-61

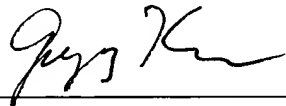
The Applicants submit new claims 56-61 for consideration by the Examiner in the present Application. New claims 56-61 recite specific detailed embodiments for implementation and utilization of Applicants' invention, as disclosed and discussed in the Specification. Applicants submit that newly-added claims 56-61 contain limitations that are not taught or suggested by the cited reference. For example, claims 56-60 recites specific embodiments of the different possible profiles discussed in the Specification. In addition, claim 61 recites a procedures for sending "requests for profiles" for information from other portable devices. Applicants therefore respectfully request the Examiner to consider and allow new claims 56-61, so that that these claims may issue in a timely manner.

### Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections. Because the cited reference, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 45-61, so that the present Application may issue in a timely manner. If there are any questions concerning this Response, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: 10/17/05

By: 

Gregory J. Koerner, Reg. No. 38,519  
Redwood Patent Law  
1291 East Hillsdale Blvd., Suite 205  
Foster City, CA 94404  
Tel: (650) 358-4000